

**The Bylaws of the Wage Theft
Prevention and Enforcement
Commission
City of Columbus**

Bylaws of the Wage Theft Prevention and Enforcement Commission

Table of Contents

Article I – Scope of Bylaws, Purpose, and Authority

Article II – Members

Article III – Organization and Officers

Article IV – Duties of Members and Standards of Conduct

Article V – Department of Finance Personnel

Article VI – Legal Counsel

Article VII – Procedural Rules for Regular Meetings

Article VIII – Procedural Rules for Hearings

Article IX – Record of Proceedings

Article X – Adoption, Certification, and Publication of Rules and Regulations

ARTICLE I – Scope of Bylaws, Purpose, and Authority

Section 1. Scope of Bylaws

The Wage Theft Prevention and Enforcement Commission (the “Commission”), constituted pursuant to Chapter 377 of the Columbus City Codes, adopts these Bylaws (the “Bylaws”) in accordance with Columbus City Codes § 377.11 and §121.02 to outline the procedures by which the Commission will conduct its work.

Section 2. Certification and Publication of Bylaws

Immediately upon adoption by a simple majority of the members appointed to and serving on the commission, a copy of these Bylaws shall be certified and attested to by the chairperson. The certified copy shall be submitted by the Administrative Coordinator (as defined herein) for filing with the City Clerk and publication in the City Bulletin within twenty (20) calendar days thereafter in accordance with Columbus City Codes §121.05. These Bylaws shall become effective on the tenth day following publication in the City Bulletin.

A copy of these Bylaws shall be maintained by the Administrative Coordinator on behalf of the Commission and by the Columbus City Clerk.

Section 3. Amendments

The Commission may amend these Bylaws from time to time by a simple majority vote of the members appointed to and serving on the commission. All Commission members must receive a copy of any proposed Bylaw amendment(s) at least five (5) business days prior to a vote on the proposed amendments. Proposed amendment(s) shall be distributed to all members in the same manner as regular meeting materials.

Amendments adopted pursuant to the foregoing procedures shall be effective on the tenth calendar day after promulgation by publication in the City Bulletin in accordance with Columbus City Codes §121.05.

Section 4. Purpose and Authority

The purpose of the Commission is to discharge the duties and functions designated to the Commission by Chapter 377 of the Columbus City Codes. The Commission is empowered to hear and determine whether an adverse determination shall issue for a violation of section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, or 377.10 of the city code; recommending to the City Attorney penalties and remedies for a finding of non-compliance with section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, or 377.10 of the city code; approve settlement agreements to settle or compromise alleged violations of sections 377.03, 377.05, 377.06, 377.07, 377.08, 377.09, and 377.10 of the city code where the covered entity has taken reasonable action to cure, remedy, or correct the action which formed the basis for the alleged violation; approve staff resolutions alleging non-compliance with section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, or 377.10 of the city code; receive complaints from residents, workers, and businesses regarding non-compliance with sections 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09, and 377.10 of the city code; publish and update bi-

monthly the adverse determination list; hear and determine whether to grant a waiver or other relief pursuant to section 377.02(o)-(r) of the city code to a person with an adverse determination under section 377.01(a)(1)(A) of the city code; hear and determine whether a covered entity or prospective covered entity and an affiliate or successor with an adverse determination are part of a single, integrated enterprise or are alter egos for the purpose of determining whether a covered entity or prospective covered entity should be placed on the adverse determination list; hear and determine whether a covered entity or prospective covered entity engaged in a de facto merger with a predecessor entity with an adverse determination for the purpose of determining whether the covered entity or prospective covered entity should be placed on the adverse determination list; and participating in community education programs.

The Commission is also empowered to make, adopt, and from time to time, alter its own procedures for the conduct of its meetings and proceedings and to select its own chairperson and vice chairperson in accordance with these Bylaws.

Section 5. Definitions

Terms not otherwise defined in these Bylaws shall have the meaning prescribed in Chapter 377 of the Columbus City Code.

ARTICLE II – Members

Section 1. Appointments and Qualifications

The Commission shall consist of five volunteer members as outlined in §377.02(c) of the Columbus City Code. A quorum shall exist when a simple majority of the members appointed to and serving on the Commission are present.

Commission Members shall complete an Ethics Law training from the Ohio Ethics Commission within 12 months of appointment. Having completed the training, Commissioners shall submit documentation to the Administrative Coordinator.

Commission members shall be disqualified from service if they are absent without excuse three (3) times in any one year period.

Removal of a commission member shall take place at a regular meeting of the Commission and is subject to a two-thirds supermajority vote of the members appointed to and serving on the Commission. The member subject to removal shall have the right to a hearing in front of the Commission.

Section 2. Term

Initial Commission members shall be appointed for staggered terms. Thereafter, each member shall be appointed for a term of three years. Members may serve more than one term.

A Commission member who, for any reason, seeks to voluntarily resign from the Commission shall do so by submitting a written letter of resignation to the Commission. The

chairperson of the Commission shall send notification to the Administrative Coordinator, as defined in Article V below, requesting replacement of the member by the same appointing authority that originally appointed the member. All member appointments shall be subject to a vote by Council, with a majority in the affirmative required for appointment. Any member appointed to a position that has been vacated prior to the expiration of the position's term shall be appointed to serve out the remainder of the unexpired term.

ARTICLE III – Organization and Officers

Section 1. Officers

There shall be the following officers of the Commission: a chairperson and a vice-chairperson.

Section 2. Chairperson

Annually, the Commission shall appoint one of the Commission members to serve as chairperson whose role it will be to preside over meetings of the Commission. The chairperson shall call meetings to order, announce the business of the Commission, recognize persons who are entitled to speak, and authenticate by signature decisions of the Commission, among other duties.

Section 3. Vice-Chairperson

Annually, the Commission shall appoint from its membership a vice-chairperson who shall serve in the absence of the chairperson.

Section 4. Committees and Subcommittees

Committees may be formed by a simple majority vote of the members appointed to and serving on the commission. The Chair shall appoint no fewer than three (3) members to a committee. Each committee must consist of at least one mayoral appointee and at least one council appointee.

ARTICLE IV – Duties of Members and Standards of Conduct

Section 1. Attendance

Attendance by Commissioners at a minimum of three meetings per year shall be required. A Commission member who misses a meeting shall submit an excuse to the Administrative Coordinator. The Commission shall approve or deny the excuse by a simple majority vote of quorum at the next meeting.

Section 2. Absenteeism

A Commission member who misses three consecutive meetings without excuse or who fails to cooperate with the Administrative Coordinator in scheduling meetings shall be subject to removal.

Section 3. Conflict of Interest

Each Commission member has a duty to disclose potential conflicts of interest with respect to matters before the Commission. A Commission member with a potential conflict of interest must recuse herself /himself from hearing the matter. A Commission member with a potential conflict of interest shall notify the Chairperson and the Administrative Coordinator as soon as practicable.

Section 5. Demeanor / Decorum

All Commission members shall act in a respectful, civil, and professional manner while discharging their duties as Commission members.

ARTICLE V – Department of Finance Personnel

Section 1. Administrative Coordinator

The Director of the Department of Finance shall select at least one full time employee to serve as Administrative Coordinator. The Administrative Coordinator shall have the authority and duties authorized by Columbus City Code §377.02, as well as any other administrative tasks assigned or requested by the Commission.. In this capacity, the Administrative Coordinator may:

- (a) Investigate alleged violations of Chapter 377 of the city code and present findings at hearings before the Commission;
- (b) Accept and process all forms and disclosures required for prospective covered entities by Chapter 377 of the city code;
- (c) Accept, process, and investigate, as necessary, all requests for waivers of an adverse determination, and present findings at waiver hearings before the Commission;
- (d) Investigate whether a prospective covered entity or covered entity should be placed on the adverse determination list for an adverse determination against an affiliate or predecessor because the prospective covered entity or covered entity and the affiliate operated as a single integrated enterprise or were alter egos, or because the prospective covered entity or covered entity and the predecessor engaged in de facto merger.
- (e) Provide information to members of the public about compliance with disclosure obligations and how to request a hearing before the Commission;
- (f) Accept and process all written requests for a hearing before the Commission;
- (g) Receive correspondence on behalf of the Commission;
- (h) Notify the Commission members of all matters that will necessitate a hearing;
- (i) Forwarding all documentation concerning a hearing at least seven (7) days prior to any such hearing;
- (j) Respond to any requests for additional information from the Commission, including coordinating requests for Legal Counsel;
- (k) Maintain records on behalf of the Commission;
- (l) Respond to public records requests on behalf of the Commission;

- (m) Make all arrangements for a court reporter to attend and create a transcript of each hearing;
- (n) Receive the Commission's final determination and send the final determination by ordinary mail to all of the parties to the hearing no later than fifteen (15) days following the final determination;
- (o) With respect to all meetings and hearings, send Commission members a reminder at least forty-eight (48) hours before the prescribed time to convene;
- (p) Set the agenda for all regular and special meetings;
- (q) Advertise all meetings and hearings by publishing notice in the City Bulletin at least forty-eight (48) hours prior to the meeting or hearing, and notify any members of the public or media that have requested notification of such meetings; and
- (r) Contact new Commission members and provide copies of any Commission orientation documents including a copy of these Bylaws.
- (s) The coordinator shall be responsible for keeping appropriate records of proceedings, including minutes of regular meetings; calling the roll for attendance at regular meetings and hearings; calling the roll for voting purposes at regular meetings; and preparing correspondence as directed by the Commission

Section 2. Communications Regarding Pending Matters

Other than transmitting documentation required for any hearing, no personnel of the Department of Finance may discuss any substantive aspect of a pending matter with Commission members other than at a formal hearing where the respondent is present or has the opportunity to be present and heard.

ARTICLE VI – Legal Counsel

The Commission shall be represented by counsel from the City Attorney's Office. Upon notification by the Commission that legal counsel is required, the Administrative Coordinator shall contact the City Attorney's Office to coordinate the assistance needed.

ARTICLE VII – Regular Meetings

Section 1. Procedural Rules

Meetings of the Commission shall be open to the public. Generally, regular meetings shall be conducted in accordance with these bylaws. Where the bylaws are silent, Robert's Rules of Order, Newly Revised may be consulted.

Section 2. Quorum

All meetings convened for official action must have a quorum present. If a quorum is not present or not maintained, the present Commission members may discuss matters of general concern, but official action requiring a vote may not be taken and must be deferred to a future meeting.

All matters to be considered by the Commission for official action are to be decided upon by an affirmative voice vote, with a majority vote of the members present needed to affirm action.

Section 3. Order of Business

The order of business for the Commission shall be at the discretion of the Administrative Coordinator, who shall set the agenda. However, the agenda for each regular meeting shall include:

- A. Roll call by the administrative coordinator.
- B. Approval of the minutes of the last meeting.
- C. Presentation of any reports from the officers, administrative coordinator, or other persons.
- D. Discussion of matters of old business, if any.
- E. Discussion of matters of new business, if any.
- F. Correspondence.
- G. Adjourn the meeting.

ARTICLE VIII – Procedural Rules for Hearings

Section 1. General Procedural Rules

Hearings may be initiated by the Administrative Coordinator, upon investigation of a violation of section 377.03, 377.04, 377.05, 377.06, 377.07, 377.08, 377.09 or 377.10 of the City code, or by a person under any of the following circumstances: The person wishes to seek a waiver or other relief pursuant to 377.02(o)-(r), or the person intends to become a covered entity and discloses an adverse determination of an affiliate or other related person for which the person that is the prospective covered entity may be liable as a single integrated employer, as an alter ego, or because the prospective covered entity engaged in or was otherwise the product of a de facto merger with the other person. When a request for a hearing is received by the Administrative Coordinator, the Administrative Coordinator will notify the Commission within five (5) days.

The Commission shall hear any matter for which a person requests a hearing no later than sixty (60) days after the filing of such a request with the Administrative Coordinator, unless the person making such request agrees to a later hearing. The hearing may be continued by the Commission if the person agrees to the continuance. In such a case, the hearing must be completed within one-hundred and twenty (120) days after the first day of the hearing unless the person and Administrative Coordinator agree otherwise.

All parties shall have the right to appear and be heard in person, and may be represented by an attorney at law. All such parties shall have the right to offer and present testimony and evidence relative to the matter and to cross examine adverse witnesses.

The Commission Chairperson shall rule on matters of evidence. In so doing, the Chairperson is not strictly bound by the Ohio Rules of Evidence. The Commission may ask

questions of any witness at any point in the proceedings and may set time and other limitations for each side in the presentation of evidence. A record of proceedings shall be kept. Parties seeking a stenographic record shall acquire such stenographic record at their own expense.

All testimony shall be given under oath or affirmation. The following oath shall be given by the chairperson to all persons who give testimony or present evidence before the Commission:

"Do you swear or affirm to tell the truth, the whole truth and nothing but the truth?"

Section 2: Quorum

Section 3: How a Hearing Shall be Conducted

Each hearing shall proceed according to the following steps:

- * Attendance roll call for Commission members.
- * Introductions.
- * Declaration of what is being heard.
- * Reading of Conflict of Interest Statement.

"Is anyone present aware of a potential conflict of interest in this appeal?"

- * City presents its case.
- * Respondent (or representative) presents Respondent's case.
- * Response time to Respondent's statements - City.
- * Response time to City's statements - Respondent.
- * Questions by the Commission members to both the City and Respondent.
- * City representative and Respondent are excused.
- * In the event additional information or Legal Counsel is needed, the Commission shall suspend the hearing until sufficient information is received. All parties will be notified of when the hearing will resume.
- * Commission members discuss case in private.

Section 4. Standard of Proof

The standard of proof for a finding shall be by a preponderance of the evidence presented.

Section 5. Final Determination

At the conclusion of the presentation of the matter, the Commission may either take the matter under consideration or move for an immediate decision.

The chairperson will record the vote and summarize the majority opinion on the final vote and signature sheet.

Members will review and sign the final vote and signature sheet (WT-7). The chairperson will be responsible for promptly submitting the summary sheet to the Administrative Coordinator, who will distribute a copy of the decision to the parties by ordinary mail within fifteen (15) days.

If deemed appropriate by the Commission, a verbal decision may be given during the hearing. If so, a copy of the written final vote and signature sheet will still be mailed to the appellant.

The Commission must render its final determination within thirty (30) days of the final hearing. Upon rendering a final determination, the Commission shall immediately forward its determination and opinion to the Administrative Coordinator, who shall send by ordinary mail a copy of the final determination and opinion no later than fifteen (15) days following the date of the final determination. The decision shall be effective immediately upon the decision of the Commission.

Section 6. Appeal

Either party may appeal the Commission's final determination pursuant to Ohio Revised Code Chapter 2506. Any order, decision, or final determination of the Commission not appealed shall be final and conclusive on the matter addressed.

ARTICLE IX – Record of Proceedings

Section 1. Record of Proceedings

In addition to the official transcript of proceedings, the record of proceedings shall include the forms completed prior to and at the appeal hearing, any briefing submitted by the parties, any evidence or documentation submitted before the Commission, and the Commission's final determination.

ARTICLE X — Adoption, Certification, and Publication of Rules and Regulations

Section 1. Adoption of Rules and Regulations

The Commission has the authority to promulgate Rules and Regulations, in accordance with § 377.11, to carry out its duties as provided for in Chapter 377.

Rules and Regulations may be adopted by a simple majority vote of the members appointed to and serving on the commission. All Commission members must receive a copy of any proposed Rule or Regulation(s) at least five (5) business days prior to a vote on the proposed

Rule/Regulation. The text of proposed Rules and/or Regulations shall be distributed to all members in the same manner as regular meeting materials.

Section 2. Certification and Publication of Rules and Regulations

Immediately upon adoption by a simple majority vote of the members appointed to and serving on the commission, a copy of any Rules and Regulations shall be certified and attested to by the chairperson. The certified copy shall be submitted to the Administrative Coordinator for filing with the City Clerk and publication in the City Bulletin within twenty (20) calendar days thereafter in accordance with Columbus City Codes §121.05. Rules and Regulations shall become effective on the tenth day following publication in the City Bulletin.

A copy of all adopted Rules and Regulations shall be maintained by the Administrative Coordinator on behalf of the Commission and by the Columbus City Clerk.

Section 3. Amendments; repeal

The Commission may amend (or repeal) Rules and Regulations from time to time by a simple majority vote of the members appointed to and serving on the commission. All Commission members must receive a copy of any proposed amendment(s) at least five (5) business days prior to a vote on the proposed amendments. Proposed amendment(s) shall be distributed to all members in the same manner as regular meeting materials.

Amendments adopted pursuant to the foregoing procedures shall be effective on the tenth calendar day after promulgation by publication in the City Bulletin in accordance with Columbus City Codes §121.05.